GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – LTR - Revision Petition filed by Sri Vijanigiri Baburao S/o. Late Muthyalu and others R/o.Lagarai (V), Rajavommangi (M), E.G.Godavari District against the orders of the Additional Agent to Government dt.30.5.2011 in CMA No.134/2006 in respect of land to an extent of Acs.16.99 in Sy.No.111/1A situated at Lagarai (V) Rajavommangi (M), E.G.District- Partly Allowed– for thorough Enquiry – Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 93 Dated: 27-11-2015

Read the following:-

1. Revision Petition filed by Sri Vijanigiri Baburao S/o. Late Muthyalu and others R/o.Lagarai (V), Rajavommangi (M), E.G.Godavari District dated:27.06.2011.
2. Govt.Memo.No.9427/LTR-2/2011, dt. 22.07.2011.
3. From the Additional Agent to Government, Rampachodavaram, East Godavari District CMA No.55 of 2005, dt.08.01.2013.
4. Govt.Lr.No.9427/LTR-2/2011, dt.26.05.2015.

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ORDER:-

In the reference first read above, Sri Vijanigiri Baburao S/o. Late Muthyalu and others R/o.Lagarai (V), Rajavommangi (M), E.G.Godavari District has filed a Revision Petition before the Government U/s. U/s. 3(1)(a) of APSALTR 1959 r/w 1/70 against the orders of the Additional Agent to Government dated:30.5.2011 in CMA No.134/2006 in respect of land to an extent of Acs.16.99 in Sy.No.111/1A situated at Lagarai (V) Rajavommangi (M), East Godavari District.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Project Officer, ITDA & Additional Agent to Government, Rampachodavaram, East Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Project Officer, ITDA & Additional Agent to Govrnment, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. The facts of the case in brief are:

The Special Deputy Collector cum Agency Divisional Officer, Rampachodavaram by his orders in LTRP No.193/2004, dated 02.12.2004 has held that the land measuring an extent of Ac.16.99 cts of land in Sy.No.111/1A, 111/1B, 111/3 situated at Lagarai village, Rajavommangi Mandal, East Godavari District from date the Petitioner herein (who is the Respondent Schedule Tribe in the said LTR case No.193/2004) is in possession and enjoyment till date which is not contrary to Sec.3 of AP Schedule Area LT Regulation 1 of 59 as amended by Regulation 1 of 70.

5. Aggrieved by the same, Gummadi Egulamma filed Appeal before Additional Agent to Government Rampachodavaram in CMA No.134/2005 who set aside the order of the Spl.Deputy Collector and ordered for ejectment the Non Tribal Respondents or any other people and for restoration the same to Government for onward assignment to eligible Tribal.

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6. Aggrieved by the same the present Revision Petitioner Vijinagiri Baburao, ST, stating that the order was not correct, that V.Muthyalu vide unregistered Gift deed dated 16.9.1969 gifted the subject land in favour of his 2nd wife Erakayamma, ST, the said Erakayamma is in possession of the said land since 16.9.1969, as per pattadar pass book and adangal in respect of said land and the said Erakayamma who belongs to Mannedora also produced tax receipts from the year 1969. The said Erakayamma expired on 13.2.2006 leaving the Revision Petitioners as legal heirs. The 1st Petitioner Baburao is son of Erakayamma and the learned Additional Agent to Government did not examine correctly the documents and the legal position relating to the above matter.

7. But the Additional Agent to Government states that in the name of the said Erakayamma and her husband non tribe by name Muthyalu is in possession and that Erakayamma and her husband are not living in the said village for than 50 years as they are living in Sankavaram Mandal which is far away from the petition schedule village ie., Lagarai of Rajavommangi Mandal.

8. When the document are placed to the effect that Erakayamma was granted Pattadar passbook under the Record of Rights Act and her name is in adangals for all these years, and that land revenue was being paid by her, the learned Additional Agent to Government should not have come to a conclusion in haste without examining the said document.

9. No doubt the principle of Resjudicata is not applicable to agency tracts and the CPC is applicable to so for as it is not repugnant to APSALT Regulation and the rules framed there under. But earlier having conducted enquiry the then Special Deputy Collector found that her (Earakayamma ST) possession and enjoyment are valid and hence he dismissed the LTR 71/1997 by his orders dated 5.10.1998.

10. The learned Special Deputy Collector does ignored to discuss on physical possession of petitioner schedule land and also wrongly held that the principle of Resjudicata is applicable. But the order of learned Additional agent to Government is also bad in as much as he grossly ignored the documentary evidence though has correctly held that the principle of Resjudicata is not applicable in agency tracts.

11. In view of the above, the Government is of view that the object and intendment of the above Regulation is that the schedule Tribe persons only shall be granted right title to possess and enjoy the land and wherever there is prohibited alienation, the Non-Tribe shall be ejected forthwith and the land in turn is liable to be restored to the original assignee/transferee as the case may be, the learned Additional Agent to Government states that the non-tribal respondent shall be ejected. But his order is not sustainable when the said Erakayamma was granted pattadar passbook and when she is found to be in possession of the land by paying land revenue etc., irrespective of the gift, the validity of which is being assailed under the provisions of Stamp and Registration Act. Further the place of her living in a different village than that of a village in which petition schedule property is situate, cannot be a ground to absolve her from her right. Hence it is felt that thorough enquiry on both fact and law are essential in the above matter for arriving at a correct conclusion and to do justice according to law.

12. From the above facts and circumstances it is clear that neither the order of Special Deputy Collector nor the order of Additional Agent to Government are sustainable under law.

13. Hence the Government is of considered view that the above matter shall be remanded to the Primary Authority ie., Special Deputy Collector (Tribal Welfare) Rampachodavaram for enquiry afresh and a decision according to law by issuing

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notices to both the parties. The said exercise shall be complete within a period of 3 months for the date of the receipt of this order.

14. In the result, the Revision Petition is allowed in part and the order of the Additional Agent to Government is set aside along with the order of Special Deputy Collector (Tribal Welfare) with a direction to Special Deputy Collector (Tribal Welfare) to hold thorough enquiry and pass orders afresh according to law.

15. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e.) (Original Record).
The Agency Divisional Officer, Rampachodavaram, E.G.District.
Copy to:
Sri Kola Satyaprasad, Advocate, ITDA, Legal Aid Cell Members, Rampachodavaram – 530 288, East Godavari District
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER